

**TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 5508, 5509, 7071 and 8587.1 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 215, 220, 5508, 5509, 5517, 7120 and 8585.5 of said Code, proposes to amend sections 27.60, 27.65, 27.82 and 28.27, Title 14, California Code of Regulations, relating to lingcod season, size and bag limits, for conformance with federal regulations.

Informative Digest/Policy Statement Overview

The Fish and Game Commission (Commission) at its teleconference meeting March 19, 2004 adopted emergency regulations that conformed California's sport fishing regulations for lingcod with the federal recreational groundfish rules adopted by the federal Pacific Fishery Management Council (Council) at its March 7-12, 2004 meeting (50 CFR Part 660). Both the state emergency regulations and the new federal regulations were in effect on April 1, 2004. The federal regulations will be in effect until December 31, 2004 unless modified by the Council. The state emergency regulations will expire on July 31, 2004 if not adopted as permanent. The Department of Fish and Game (Department) is proposing that the regulations adopted by the Commission as an emergency action be made permanent.

The emergency action increased the minimum size limit of lingcod from 24 to 30 inches, increased the fillet size from 16 to 21 inches in length, reduced the bag limit from two to one fish per person, and prohibited retention of lingcod in the months of November and December for California's recreational fishery.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Elk Valley Rancheria, 2500 Howland Hill Road, Crescent City, California, on Friday, June 25, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before June 18, 2004 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than June 25, 2004, at the hearing in Crescent City, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **Marija Vojkovich, Offshore Ecosystem Coordinator, Department of Fish and Game, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm/.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete With Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

It is anticipated that the proposed regulations will reduce recreational take of lingcod in California. The proposed regulations are expected to have a coastwide economic impact affecting business, although they are not expected to significantly affect the ability of California businesses to compete with businesses in other states. The short term losses to businesses are expected to be offset, to some degree, in the long term by improvements in the status (abundance, size, and quality) of lingcod and nearshore fish stocks. Individual sport fishermen and small businesses that service California's ocean sportfishing activities will be primarily impacted. Commercial passenger fishing vessels (CPFVs) that rely in large part on taking passengers fishing for rockfish and lingcod comprise a small-business sector that will be directly impacted, in addition to other businesses which depend on private boat and shore-based recreational angling opportunities such as bait and tackle manufacturers.

California CPFV operators often target rockfish and lingcod during winter months when resident and migratory game fishes are not as active or are unavailable. Information from the National Marine Fisheries Service (NMFS) estimates that anglers aboard CPFVs take roughly 58.4 percent by number of all ocean rockfishes caught by all recreational fishermen in California. Based on an NMFS survey of year 2000 angler expenditures, total party boat charter fees paid annually by resident and nonresident passengers amounted to about \$64.1 million for California. However, few recreational

trips are only targeting lingcod. Instead, lingcod are caught in association with rockfish, since recreational fishing usually entails catches of assorted bottom fish species in the aggregate. Consequently, it is difficult to estimate what portion of these expenditures is due exclusively to availability of lingcod. Given that some recreational take of lingcod will still be allowed under the proposed regulations, and other bag limits for other species of bottom fish will not change, this is not expected to have a significant economic impact on recreational fisheries.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: April 27, 2004

Robert R. Treanor
Executive Director